on the basis of amounts considered as collected. P does not compute the amount of deposits of tax on the basis of actual collections. P files Form 720 on a quarterly basis to report the tax. P reported $54,000 of section 4261 (a) and (b) tax for the third calendar quarter of 1992. P is not required to report any other taxes on its Form 720.

(2) For the last month of 1992 and the first two months of 1993, P's separate account reflects the following:

Tickets sold during	Tax
Dec. 1st–15th	$11,000
Dec. 16th–31st	11,000
Jan. 1st–15th	7,500
Jan. 16th–31st	7,500
Feb. 1st–15th	9,500
Feb. 16th–28th	9,500
Total	$56,000

(3) The tax is considered as collected during the first week of the second semimonthly period following the semimonthly period in which the tickets were sold to the customers. Accordingly, the tax included in tickets sold during the period December 1992 through February 1993 is considered as collected as follows:

For tickets sold during	Tax is considered as collected during
Dec. 1st–15th	Jan. 1st–7th
Dec. 16th–31st	Jan. 16th–22nd
Jan. 1st–15th	Feb. 1st–7th
Jan. 16th–31st	Feb. 16th–22nd
Feb. 1st–15th	Mar. 1st–7th
Feb. 16th–28th	Mar. 16th–22nd

(ii) *Filing requirement.* Because P is responsible for collecting and paying over air transportation tax, P must file the return of that tax (§40.6011(a)–1(a)(3)). P's Form 720 for the first calendar quarter of 1993 is due by Tuesday, June 1, 1993. P's Form 720 would ordinarily be due by May 31, 1993 (the last day of the second month after the end of the calendar quarter (§40.6071(a)–2(a)), but May 31, 1993, is Memorial Day, a legal holiday. Thus, under section 7503, P has additional time to file. Under §40.6011(a)–1(a)(2), P must continue to file a Form 720 for each calendar quarter until P files a final return under §40.6011(a)–2.

(iii) *Deposit requirement; in general.* Because P maintains the separate account required under §40.6302(c)–3(b)(2)(ii) and makes returns of tax on the basis of amounts of tax considered as collected, P may use the alternative method to compute the amount of tax to be deposited (§40.6302(c)–3(b)(2)). P is required to make a deposit of tax for each semimonthly period in which tax is considered as collected (§40.6302(c)–1(b)(1)(iii)). P must deposit an amount not less than the net amount of tax that is considered as collected during the semimonthly period (§40.6302(c)–3(d)). Under the alternative method, deposits of air transportation tax are due by the third banking day after the end of the week during which the tax is considered as collected (§40.6302(c)–3(c)). Accordingly, P meets the deposit requirement for the first quarter of 1993 if P makes the following deposits:

By Jan. 12th	$11,000
By Jan. 27th	11,000
By Feb. 10th	7,500
By Feb. 25th	7,500
By Mar. 10th	9,500
By Mar. 25th	9,500

(iv) *Deposit requirement; safe harbor.* P may also meet the deposit requirement by using a safe harbor rule (§40.6302(c)–1(c)(1)(i)). P uses the safe harbor based on look-back quarter liability. This is permitted because P filed a return reporting tax imposed on air transportation under section 4261 (a) and (b) for the third quarter of 1992 (the look-back quarter under §40.6302(c)–1(c)(2)(i)). P meets this safe harbor by—

(1) Depositing $9,000 (⅙ of $54,000, P's net tax liability for the third calendar quarter of 1992 (§40.6302(c)–1(c)(2)(i)(A)) by the due dates specified above (§40.6302(c)–1(c)(2)(i)(B)); and

(2) Paying $2,000 (the amount by which the net tax liability for the first calendar quarter of 1993 ($56,000) exceeds the net tax liability for the look-back quarter ($54,000)) by June 1, 1993, the due date of the return (§40.6302(c)–1(c)(2)(i)(D)).

(v) *Reporting requirement.* Under the alternative method, P's Form 720 for the first quarter of 1993 reports the $56,000 of air transportation taxes considered as collected during that quarter (§40.6302(c)–3(e)).

[T.D. 8442, 57 FR 48177, Oct. 22, 1992; 58 FR 6575, Jan. 29, 1993, as amended by T.D. 8685, 61 FR 58007, Nov. 12, 1996]

PART 41—EXCISE TAX ON USE OF CERTAIN HIGHWAY MOTOR VEHICLES

Subpart A—Introduction

Sec.

Subpart B—Tax on Use of Certain Highway Motor Vehicles

Subpart C—Administrative Provisions of Special Application to Tax on Use of Certain Highway Motor Vehicles

AUTHORITY: 26 U.S.C. 7805; §41.4482(b)–1 also issued under 26 U.S.C.4482(b); §41.4483–3 also issued under 26 U.S.C. 4483(d); §41.6001–3 also issued under 101 Stat. 260.

SOURCE: T.D. 6216, 21 FR 9645, Dec. 6, 1956; 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

Subpart A—Introduction

§41.0–1 Introduction.

(a) *In general.* The regulations in this part are designated ''Highway Motor Vehicle Use Tax Regulations''. The regulations relate to the tax imposed by Subchapter D of Chapter 36 of the Internal Revenue Code of 1954 and to certain related administrative provisions of Subtitle F of such Code. Subchapter D of Chapter 36 imposes an excise tax on the use of certain highway motor vehicles on the public highways in the United States.

(b) *Division of regulations.* The regulations in this part are divided into three subparts. Subpart A contains provisions relating to the arrangement and numbering of the sections of the regulations in this part, general definitions and use of terms, and scope of the regulations. Subpart B relates to the provisions of the Code set forth in Subchapter D of Chapter 36 thereof (Tax on Use of Certain Vehicles). Subpart C relates to selected provisions of Subtitle F of the Code (Procedure and Administration) which have special application to the tax imposed by Subchapter D of Chapter 36 of the Code.

(c) Arrangement and numbering. Each section of the regulations in this part (other than Subpart A) is designated by a number composed of the part number followed by a decimal point (41.); the section of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4481 of the Code are designated §§41.4481–1, 41.4481–2, and 41.4481–3.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 7665, 45 FR 6090, Jan. 25, 1980]

§41.0–2 General definitions and use of terms.

As used in the regulations in this part, unless otherwise expressly indica0ted:

(a) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(b) The Internal Revenue Code of 1954 means the act approved August 16, 1954 (68A Stat.), entitled ''An Act To revise the internal revenue laws of the United States'', as amended.

(c) References to the ''Internal Revenue Code'' or the ''Code'' are references to the Internal Revenue Code of 1954.

(d) References to a section or other provision of law are references to a section or other provision of the Internal Revenue Code of 1954.

(e) District director means district director of internal revenue. The term also includes the Director of International Operations in all cases where the authority to perform the functions which may be performed by a district director has been delegated to the Director of International Operations.

(f) Tax means the tax on the use of certain highway motor vehicles imposed by section 4481 of the Code.

(g) Highway Revenue Act of 1956 means Title II of the Act approved June 29, 1956 (70 Stat. 387).

(h) The cross references in the regulations in this part to other portions of the regulations, when the word ''see'' is used, are made only for convenience and shall be given no legal effect.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7929, June 23, 1964]

§ 41.0–3 Scope of regulations.

The regulations in this part apply to the use of certain highway motor vehicles on the public highways in the United States after June 30, 1956, and before the date the tax imposed by section 4481(a) ceases to apply.

[T.D. 7505, 42 FR 42856, Aug. 25, 1977]

Subpart B—Tax on Use of Certain Highway Motor Vehicles

§ 41.4481–1 Imposition of tax.

(a) *In general.* (1) A tax is imposed under section 4481(a) of the Code for each taxable period beginning after June 30, 1984, on the first use on the public highways in the United States during such period of any highway motor vehicle that (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds, at the rate specified in paragraph (b) of this section. The tax is imposed on the use of such a highway motor vehicle only if, at the time of the use of such vehicle, it is registered or required to be registered in the name of a person (whether or not such person is the person who uses the vehicle). See, however, §§ 41.4483–1, 41.4483–2, and 41.4483–3 relating respectively to exemptions from the tax in the case of highway motor vehicles used by a state or any political subdivision thereof, certain transit-type buses, and vehicles used for 5,000 or fewer miles (7,500 or fewer miles in the case of agricultural vehicles) on public highways. See § 41.4483–6 relating to a reduction in tax in the case of certain trucks used in logging. For definitions of the terms ''registered'', ''highway motor vehicle'', ''taxable gross weight'', ''taxable period'', ''use'', and ''customary use'', see §§ 41.4481–4, 41.4482(a)–1, 41.4482(b)–1, and paragraphs (b), (c), and (d) of § 41.4481(c)–1 respectively.

(2)(i) For taxable periods beginning after June 30, 1985, and before July 1, 1987, any highway motor vehicle that is issued a base plate by a Canadian province under the International Registration Plan (IRP) or similar agreement and has a proportional registration under such agreement to satisfy the registration laws of any of the United States shall be exempt from the tax imposed by section 4481(a).

(ii) For each taxable period beginning after June 30, 1987, the tax imposed by section 4481(a) shall apply to any highway motor vehicle that has a base for registration purposes in a contiguous foreign country upon the first use of such vehicle on the public highways in the United States during such period. See § 41.4483–7 relating to a reduction of the tax in the case of a highway motor vehicle that has a base for registration purposes in a contiguous foreign country.

(b) *Rate of tax.* (1) For taxable periods after June 30, 1956, and before July 1, 1984, the tax is computed on each 1,000 pounds of taxable gross weight or fraction thereof for each highway motor vehicle the use of which at any time during the taxable period is subject to the tax. Thus, any fraction of 1,000 pounds of taxable gross weight is treated as 1,000 pounds for purposes of the computation of the tax. Following are the rates of tax in effect for taxable periods after June 30, 1956 and before July 1, 1984:

Period of vehicle use	Rate of tax per 1,000 pounds or fraction thereof of taxable gross weight
For each taxable year period commencing after June 30, 1956, and ending before July 1, 1961	$1.50
For each taxable year period commencing after June 30, 1961, and ending before July 1, 1984	3.00

(2) For taxable periods after June 30, 1984, the tax is computed on each 1,000 pounds of taxable gross weight or fraction thereof of each highway motor vehicle the use of which at any time during the taxable period is subject to the tax as set forth in paragraph (a)(1) of this section. Thus, any fraction of 1,000 pounds of taxable gross weight in excess of 55,000 pounds of taxable gross weight is treated as 1,000 pounds for purposes of the computation of the tax. Following are the rates of tax in effect for taxable periods after June 30, 1984:

Taxable gross weight	Rate of tax
At least 55,000 pounds but not over 75,000 pounds.	$100 per taxable period plus $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds.
Over 75,000 pounds	$550.

For the taxable period beginning July 1, 1993, and ending September 30, 1993, the annual rate of tax shall be determined by substituting ''$25'' for ''$100'', ''$5.50'' for ''$22'', and ''$137.50'' for ''$550'', in the table in this paragraph (b)(2). However, if the tax imposed by section 4481(a) is extended to apply to use after September 30, 1993, the rate of tax for taxable periods after June 30, 1993, shall be as provided in section 4481(a).

(c) *Computation of tax.* (1) Except as provided in paragraph (c)(2) of this section, the tax on the use of a particular highway motor vehicle for taxable periods beginning after June 30, 1984, is computed as follows:

(i) For vehicles with a taxable gross weight of at least 55,000 pounds, but not over 75,000 pounds, add to $100 an amount equal to $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds; and

(ii) For vehicles with a taxable gross weight over 75,000 pounds, the tax is $550.

(2) If the first taxable use of a particular highway motor vehicle is made after the first month of the taxable period, the tax on the use of such vehicle for such taxable period is computed by multiplying the amount of tax that would be due for a full taxable period as computed under paragraph (c)(1) of this section, by a fraction. Such fraction shall have as its numerator the number of months in the taxable period beginning with the month of first taxable use and as its denominator the number of months in the entire taxable period. For purposes of determining the fraction, any part of a month is counted as a full month. (See example (2) of paragraph (e) of this section.)

(3) If a Form 2290 has been filed for a taxable period for a highway motor vehicle based on a particular taxable gross weight, and such taxable gross weight increases during the same taxable period, then the taxpayer shall file a new Form 2290 and pay (either in full or by installments) any additional tax imposed as a result of the increased taxable gross weight. Such additional tax shall be equal to the amount calculated according to the following formula:

$$\left[\left(T_1 \times \frac{P}{12}\right) + \left(T_2 \times \frac{R}{12}\right)\right] - T_1,$$

where:

T_1=Tax imposed for a full taxable period (or partial taxable period as determined under paragraph (c)(2) of this section) at the vehicle's previously reported taxable gross weight.

T_2=Tax imposed for the same taxable period as used in T_1 at the vehicle's increased taxable gross weight.

P=The number of months in the taxable period during which the vehicle's taxable gross weight was as previously reported for such taxable period. This number does not include the month in which the vehicle's taxable gross weight increased.

R=The number of months remaining in the taxable period including the month in which the vehicle's taxable gross weight was increased.

If tax was imposed for a partial taxable period as determined under paragraph (c)(2) of this section, the additional tax

is determined by substituting the number of months in such partial taxable period for ''12'' in the above formula.

(4) If in any taxable period the taxable gross weight of a highway motor vehicle is decreased, the computation of tax is not affected and no right to credit or refund of any tax paid under section 4481 arises.

(5) If in any taxable period a highway motor vehicle is destroyed or stolen before the first day of the last month in the taxable period, and is not subsequently used during such taxable period, the tax shall be calculated proportionately from the first day of the month in the period in which the first taxable use of the highway motor vehicle occurs to and including the last day of the month in which the highway motor vehicle was destroyed or stolen. Any tax paid under section 4481(a) on such a highway motor vehicle in excess of the tax calculated in the preceding sentence, shall be an overpayment for which a credit or refund of tax may be claimed. For purposes of this paragraph (c)(5), a highway motor vehicle is destroyed if the vehicle is damaged due to an accident or other casualty to such an extent that it is not economical to rebuild.

(6) If the use of a highway motor vehicle during the taxable period is discontinued (for reasons other than destruction or theft as described in paragraph (c)(5) of this section) or is converted to a use which is exempt from the tax imposed by section 4481(a), the computation of the tax is not affected and no right to a credit or refund of any tax paid under section 4481 arises.

(d) *Credit or refund of tax under section 4481(a).* (1) Any claim for refund of an overpayment of tax under section 4481(a) due to destruction or theft of the vehicle shall be made in accordance with the applicable provisions of this section and § 301.6402–2 (Regulations on Procedure and Administration) and shall be filed by the person in whose name the vehicle is registered or required to be registered when the vehicle is destroyed or stolen. A claim for refund of the tax imposed by section 4481(a) is to be filed on Form 843 (Claim).

(2) Any person entitled to claim a refund of tax under paragraph (d)(1) of this section may, in lieu of claiming a refund of such tax, claim a credit for such tax on the next Form 2290 required to be filed.

(e) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). In the taxable period beginning July 1, 1984, the first taxable use of a particular highway motor vehicle, a bus, having a taxable gross weight of 56,000 pounds, occurs on July 10, 1984, at which time the vehicle is registered in the name of X. A tax of $122 ($100+$22) is imposed on X for the use of such vehicle for such taxable period.

Example (2). On July 1, 1984, X has registered in his name a highway motor vehicle having a taxable gross weight of 60,000 pounds. The vehicle is in ''dead storage'' until August 10, 1984, at which time X starts using the vehicle on the public highways in carrying on his trucking business. On August 10, 1984, the vehicle is still registered in X's name. Since the first taxable use of this highway motor vehicle during the taxable period occurred on August 10, 1984, X is required to pay a tax of $192.50 ([$100+(5×$22)]×11/12) for such taxable period.

Example (3). On April 15, 1985, a vehicle with a taxable gross weight of 70,000 pounds and registered in the name of Y is completely destroyed. Y had purchased the vehicle from X who had paid the tax for the taxable period beginning July 1, 1984. Y is entitled to a refund of tax for those full months after destruction in the taxable period ending June 30, 1985. Thus, Y may file a claim for a refund of $71.67—2/12 of the total tax of $430 ($100+(15×$22)).

[T.D. 8027, 50 FR 21246, May 23, 1985, as amended by T.D. 8159, 52 FR 33584, Sept. 4, 1987; T.D. 8177, 53 FR 6626, Mar. 2, 1988]

§ 41.4481–1T Special rules for small owner-operators (temporary).

(a) *In general.* In the case of a small owner-operator (as defined in paragraph (b) of this section), the tax imposed by section 4481(a) for the taxable period beginning July 1, 1984, and ending June 30, 1985, is:

(1) For vehicles with a taxable gross weight under 55,000 pounds—no tax,

(2) For vehicles with a taxable gross weight of at least 55,000 pounds but not over 58,000 pounds—the amount determined by using the rate of tax set forth in paragraph (b) of § 41.4481–1T, and

(3) For vehicles with a taxable gross weight over 58,000 pounds—$3.00 for each 1,000 pounds (or fraction thereof)

of taxable gross weight, but not to exceed $550.

If the first taxable use of a particular highway motor vehicle subject to tax under this section is made after the end of the first month of the taxable period, or if a particular highway motor vehicle subject to tax under this section is destroyed or stolen before the first day of the last month in the taxable period, the tax shall be computed using the proration rules provided in §§41.4481–1T(c) (2) and (3), respectively. The tax imposed by section 4481(a) on a small owner-operator for taxable periods beginning after June 30, 1985, is the amount determined by using the rate of tax set forth in paragraph (b) of §41.4481–1T.

(b) *Small owner-operator.* For purposes of this section, the term ''small owner-operator'' means any person who at all times during the taxable period owns no more than 5 highway motor vehicles with respect to which a tax is imposed by section 4481(a) for such taxable period and operates no more than 5 highway motor vehicles with respect to which a tax is imposed by section 4481(a) for such taxable period. For purposes of the preceding sentence, a vehicle on which the tax has been suspended under §41.4483–2T(a) shall be considered a vehicle with respect to which a tax is imposed by section 4481(a). A person may qualify as a small owner-operator under this section with respect to vehicles which such person owns and operates, notwithstanding the fact that such vehicles are registered or are required to be registered in the name of another person. Such other person who has registered or is required to register the vehicles, but who does not own or operate the vehicles, will be entitled to compute tax under §41.4481–1aT, to the extent the vehicles are owned and operated by small owner-operators. See Example (5) of paragraph (f) of this section. In the case of a lease of a vehicle, the lessor is treated as the owner and the lessee is treated as the operator of such vehicle.

(c) *Aggregation of vehicle ownerships.* For purposes of paragraph (b) of this section all highway motor vehicles upon which the tax under section 4481(a) is imposed which are owned or operated by:

(1) Any trades or businesses (whether or not incorporated) which are under common control with a taxpayer (as defined in §1.52–1(b)), or

(2) Any member of any controlled group of corporations of which a taxpayer is a member, for any taxable period,

shall be treated as being owned or operated by such taxpayer during such taxable period.

(d) *Controlled groups of corporations.* For purposes of paragraph (c)(2) of this section the term ''controlled group of corporations'' has the same meaning assigned to it in section 1563(a), except that:

(1) ''More than 50 percent'' shall be substituted for ''at least 80 percent'' each place it appears in section 1563(a)(1), and

(2) The determination shall be made without regard to sections 1563(a)(4) and 1563(e)(3)(C).

(e) *Highway motor vehicle.* For purposes of this section, the term ''highway motor vehicle'' has the same meaning assigned to such term in section 4482(a) and the regulations thereunder.

(f) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). On July 1, 1984, Z is the owner and operator of 5 highway motor vehicles each of which has a taxable gross weight of 60,000 pounds. On July 5, 1984, Z leases an additional 2 highway motor vehicles with a taxable gross weight of 60,000 pounds for use in Z's trucking business. Even though Z only owns 5 highway motor vehicles with respect to which a tax is imposed under section 4481(a), Z is operating a total of 7 such vehicles. Therefore, Z does not qualify as a small owner-operator under this section.

Example (2). On July 1, 1984, X is the owner and operator of 5 highway motor vehicles each of which has a taxable gross weight in excess of 58,000 pounds as determined under the schedules set forth in §41.4482(b)–1T. X pays tax on these vehicles under section 4481 as provided in paragraph (a)(3) of this section. A new vehicle weighting 60,000 pounds is added to X's operating fleet in October 1984. X's small owner-operator status ceases upon the addition of the 6th vehicle to X's fleet and additional tax liability is incurred at such time in an amount equal to the excess of the tax which would have been imposed on the original 5 vehicles under

§ 41.4481–1T(b) for the entire taxable period over the tax X paid for these vehicles under paragraph (a)(3) of this section. Tax liability for the 6th vehicle is determined under the rate set forth in § 41.4481–1T(b) for the period from October 1, 1984, to June 30, 1985, under the proration rules in § 41.4481–1T(c)(2).

Example (3). On July 1, 1984, Y is the owner and operator of 100 highway motor vehicles. For purposes of determining whether or not Y qualifies as a small owner-operator, the taxable gross weight of the vehicles is determined by reference to the schedules set forth in § 41.4482(b)–1T. Ninety-seven of the vehicles have a taxable gross weight of less than 55,000 pounds. Three of the vehicles have a taxable gross weight of 60,000 pounds. Thus, Y is the owner and operator of a fleet of 5 or fewer vehicles subject to tax under section 4481(a) and is a small owner-operator. The tax imposed by section 4481(a) is applied by determining the rate of tax under paragraph (a) of this section. Thus, for the taxable period July 1, 1984, through June 30, 1985, Y is liable for no tax on the vehicles weighing less than 55,000 pounds, and $540 ($180×3) of tax on the vehicles weighing 60,000 pounds.

Example (4). Assume the same facts as in Example (3), except that on January 1, 1985, Y buys three highway motor vehicles each of which weighs 60,000 pounds. Y's small owner-operator status ceases upon the addition of the three vehicles to Y's fleet and Y must redetermine the tax on the vehicles using the rates in § 41.4481–1T(b). The redetermined tax on the original three vehicles weighing 60,000 pounds is $630 ($210×3). Since Y already paid $540 on these three vehicles, the additional amount to be paid is $90 (without interest). In addition, Y is liable for tax on the three added 60,000 pound vehicles for the period from January 1, 1985, through June 30, 1985, at the rates set forth in § 41.4481–1T(b). Thus, the tax due on these vehicles is $315 ($^6/_{12}$×[3×$210]). The total tax due from Y is $405, and must be paid with a Form 2290 filed by February 28, 1985.

Example (5). Fleet carrier A has entered into operating agreements with 50 highway motor vehicle operators, each of which will provide services to A's shipping customers. None of the 50 operators are under common control with A or are members of a controlled group of corporations of which A is a member. Twenty of A's vehicle operators have purchased two truck-tractors (the ''vehicles'') under conditional sales contracts with A while 10 vehicle operators purchased two vehicles under conditional sales agreements with other persons. All 30 of these operators are treated as owning their vehicles for Federal income tax purposes. The remaining 20 operators own outright two vehicles each. For purposes of determining the amount of tax imposed by section 4481(a), each owner of two vehicles is considered a small owner-operator. In the interest of administrative convenience, A registers all 100 of its fleet vehicles in its own name under the laws of A's home state and pays the tax imposed on these vehicles. A is reimbursed by the operators for registration fees and taxes paid. Since A neither owns nor operates the 100 vehicles which are owned and operated by the small owner-operators, A pays the tax under section 4481(a) based on the rate applicable to small owner-operators.

Example (6). Assume the same facts as in Example (5), except that ten of A's vehicle operators have leased two vehicles each from A, rather than purchasing the vehicles under conditional sales contracts. As to these twenty leased vehicles, A is treated as the owner of the vehicles and cannot compute tax under section 4481(a) for these vehicles based on the rate applicable to small owner-operators, but must instead compute the tax based on the rate set forth in § 41.4481–1T(b). A is still eligible to compute tax under section 4481(a) on the other 80 vehicles based on the rate applicable to small owner-operators because these vehicles are owned and operated by small owner-operators.

Example (7). P is a corporation which owns more than 50 percent of the single outstanding class of stock of three corporations, X, Y and Z. X Corporation operates and has registered in its name two highway motor vehicles, each of which has a taxable gross weight in excess of 55,000 pounds. Y and Z Corporations operate and have registered in their names three and two vehicles, respectively, each of which has a taxable gross weight in excess of 55,000 pounds. For purposes of paragraph (c)(2) of this section, Corporations P, X, Y, and Z are treated as members of a ''controlled group of corporations'' as that term is defined in § 41.4481–1aT(d). Thus, although each corporation pays the Federal Highway Use Tax on its vehicles separately from the other corporations, ownership and operation of their vehicles must be aggregated and none of the corporations qualify as a small owner-operator under this section. Accordingly, each corporation shall furnish such information as is required on the first Form 2290 filed for the taxable period and determine its tax liability under the rates set forth in § 41.4481–1T(b).

(Secs. 4051(d)(2)(B)(ii) (98 Stat. 1009; 26 U.S.C. 4051(d)(2)(B)(ii), 4483(d) (96 Stat. 2178; 26 U.S.C. 4483(d)), and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

[T.D. 7970, 49 FR 34469, Aug. 31, 1984; 49 FR 45849, Nov. 21, 1984. Redesignated by T.D. 8027, 50 FR 21247, May 23, 1985]

§ 41.4481–2 Persons liable for tax.

(a) *In general.* (1) The person in whose name any highway motor vehicle is

registered at the time of the first taxable use of such vehicle in any taxable period is liable for the tax on the use of the vehicle for such taxable period. This liability is for the total tax even though such person elects to pay the tax in installments. If thereafter in the same taxable period a taxable use of such vehicle is made while it is registered in the name of another person, such other person is also liable for the tax on the use of such vehicle for such taxable period to the extent that the tax or an installment payment of the tax has not previously been paid. In case more than one person is liable for the tax on the use of a particular highway motor vehicle for a taxable period, the liability of all persons for such tax is satisfied to the extent that the tax is paid by any person liable for the tax.

(2) The application of paragraph (a)(1) of this section may be illustrated by the following example:

Example. In the taxable period beginning July 1, 1985, the first taxable use of a particular highway motor vehicle having a taxable gross weight of 60,000 pounds occurs on July 10, 1985, at which time the vehicle is registered in the name of Y. On September 1, 1985, Y sells the vehicle to X who registers and uses the vehicle before the end of such taxable period. Since the vehicle was registered in the name of Y at the time of its first taxable use, Y is liable for the total tax of $210 ($100+(5×$22)) imposed on the use of the vehicle for the taxable period. X is also liable for $210 tax or any part thereof, but only to the extent that Y does not pay it. To the extent that either X or Y pays the tax the other party is relieved of such liability.

(b) *Evidence of prior use of second-hand vehicle.* Every person who, at any time in the taxable period, acquires and has registered in his name a secondhand highway motor vehicle shall obtain and keep as a part of his records evidence, which he believes to be true, showing whether there was or was not a taxable use of such vehicle at any time in such taxable period prior to the time when the vehicle was registered in his name. Such person shall also obtain and keep as evidence a statement from the transferor as to whether there was in effect, at the time the vehicle was acquired, a suspension under §41.4483–3(a) of the tax imposed by section 4481(a). The evidence may take the form of a written statement, signed and dated by the person from whom the vehicle was acquired, showing whether there was or was not a prior taxable use of the vehicle and whether there was a suspension of tax in the taxable period. If the vehicle is acquired from a dealer in highway motor vehicles, the statement may be obtained from such dealer or from the person from whom the dealer acquired such vehicle. If evidence is not obtained showing whether there was or was not a prior taxable use of such vehicle and whether there was a suspension of tax in the taxable period, such person shall keep as a part of his records a written statement of the reason why he was unable to obtain such evidence.

(c) *Cross references.* (1) For provisions relating to interest on underpayments of tax, see §301.6601–1 of this chapter (Regulations on Procedure and Administration).

(2) For records required to be kept, see §41.6001–1.

(3) For rules applicable to installment payment of tax for highway use tax liability, see §41.6156–1.

(4) For rules applicable to time of filing returns, see §41.6071(a)–1.

[T.D. 6743, 29 FR 7930, June 23, 1964, as amended by T.D. 8027, 50 FR 21247, May 23, 1985]

§41.4481–3 Registration.

(a) For purposes of the regulations in this part, the term ''registered'' when used in reference to a highway motor vehicle means—

(1) Registered under the law of any State or Territory of the United States, the District of Columbia, or contiguous foreign country, or

(2) Required to be registered under the law of any State or Territory of the United States or contiguous foreign country in which such highway motor vehicle is operated or situated or, in case the vehicle is operated or situated in the District of Columbia, under the law of the District of Columbia.

Any highway motor vehicle which is operated under a dealer's tag, license, or permit is considered to be registered in the name of such dealer. A highway motor vehicle is not considered to be registered solely by reason of the fact that there has been issued a special permit for operation of the vehicle at

particular times and under specified conditions.

(b) Any highway motor vehicle which, at any time in the taxable period, is registered both in the name of the owner of the vehicle and in the name of any other person, is considered, for purposes of the regulations in this part, to be registered, at such time, solely in the name of the owner of the vehicle.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7931, June 23, 1964; T.D. 8159, 52 FR 33584, Sept. 4, 1987]

§ 41.4482(a)–1 Definition of highway motor vehicle.

(a) *Highway motor vehicle.* The term ''highway motor vehicle'' means any vehicle that is both:

(1) A vehicle propelled by means of its own motor, whether such motor is powered by gasoline, diesel fuel, special motor fuels, electricity, or otherwise, and

(2) A ''highway vehicle'' as defined in paragraph (c) of this section.

(b) *Treatment of certain excluded vehicles.* Although trailers and semitrailers used in combination with highway trucks or truck-tractors are not vehicles the use of which is subject to the tax imposed by section 4481(a), trailers and semitrailers customarily used in combination with highway trucks or truck-tractors are taken into account in determining the taxable gross weight of the highway motor vehicle under § 41.4482(b)–1, which is the base of the tax.

(c) *Highway vehicle.* For the definition of the term ''highway vehicle'' as used in this subchapter, see § 48.4061(a)–1(d).

[T.D. 7461, 42 FR 2671, Jan. 13, 1977]

§ 41.4482(b)–1 Definition of taxable gross weight.

(a) *In general.* The tax imposed on the use of a highway motor vehicle (of a taxable gross weight of at least 55,000 pounds) is based on the taxable gross weight of such highway motor vehicle. Taxable gross weight of a highway motor vehicle is determined with reference to the sum of (1) the actual unloaded weight of such highway motor vehicle (fully equipped for service); (2) the actual unloaded weight of any trailers or semitrailers (fully equipped for service) customarily used in combination with such highway motor vehicle; and (3) the weight of the maximum load customarily carried on such highway motor vehicle and on any trailers or semitrailers customarily used in combination with such highway motor vehicle. In order to determine the taxable gross weight of a particular vehicle for a particular taxable period, use the appropriate method described in either paragraphs (c), (d), or (e) of this section, or § 41.4482(b)–1T.

(b) *Meaning of terms.* For purposes of the schedule of taxable gross weights prescribed in paragraph (c) of this section:

(1) The term ''actual unloaded weight'' means the empty (or tare) weight of the truck, truck-tractor, or bus, fully equipped for service.

(2) The term ''fully equipped for service'':

(i) In the case of trucks and truck-tractors, includes body (whether or not designed and adapted primarily for transporting cargo, as for example, concrete mixers); all accessories; all equipment attached to or carried on such truck or truck-tractor for use in connection with the movement of the vehicle by means of its own motor or for use in the maintenance of the vehicle; and a full complement of lubricants, fuel, and water. The term does not include driver, any equipment (not including body) attached to or carried on the vehicle for use in handling, protecting, or preserving cargo; or any special equipment (such as an air compressor, crane, specialized oilfield machinery, etc.) mounted on the vehicle for use on construction jobs, in oilfield operations, etc.,

(ii) In the case of buses, for taxable periods beginning before July 1, 1964, includes body; all accessories; all equipment attached to or carried on such bus for use in connection with the movement of the vehicle by means of its own motor or for use in the maintenance of the vehicle; and a full complement of lubricants, fuel, and water. The term does not include driver or any equipment (not including body) attached to or carried on the vehicle for the accommodation of passengers or

others (such as air-conditioning equipment and sanitation facilities, etc.), and

(iii) In the case of buses, for taxable periods beginning on or after July 1, 1964, includes body; all accessories; all equipment attached to or carried on such bus for use in connection with the movement of the vehicle by means of its own motor, for use in the maintenance of the vehicle, or for the accommodation of passengers or others (such as air-conditioning equipment and sanitation facilities, etc.); and a full complement of lubricants, fuel, and water. The term does not include driver.

(c) *Schedule of taxable gross weights for periods before July 1, 1969.* The following schedule of taxable gross weights, based on the sum of the weights referred to in paragraph (a) of this section, is hereby prescribed for taxable periods beginning before July 1, 1969:

USE TAX SCHEDULE

	Taxable gross weight (in pounds)
1. *Single units:*	
2 axled truck equipped for use as a single unit with actual unloaded weight of 13,000 pounds or more	27,000
3 or 4 axled truck equipped for use as a single unit with actual unloaded weight of at least 13,000 pounds and less than 16,000 pounds	30,000
3 or 4 axled truck equipped for use as a single unit with actual unloaded weight of 16,000 pounds or more	40,000
2. *Combinations:*	
2 axled truck-tractor with actual unloaded weight of at least 5,500 pounds and less than 7,000 pounds	30,000
2 axled truck-tractor with actual unloaded weight of at least 7,000 pounds and less than 9,500 pounds	40,000
2 axled truck-tractor with actual unloaded weight of 9,500 pounds or more	50,000
2 axled truck with actual unloaded weight of at least 9,000 pounds and less than 12,000 pounds and equipped for use in combinations	40,000
2 axled truck with actual unloaded weight of 12,000 pounds or more and equipped for use in combinations	55,000
3 or 4 axled truck equipped for use in combinations	60,000
3 or 4 axled truck-tractor	60,000
3. *Buses:* Actual unloaded weight of vehicle plus 150 pounds for each unit of seating capacity provided for passengers and driver.	

Any highway motor vehicle which falls in one of the categories shown in such schedule shall be considered, for purposes of the regulations in this part, to have the taxable gross weight assigned to such category. Any highway motor vehicle which does not fall in one of the categories shown in such schedule shall be considered, for purposes of the regulations in this part, to have a taxable gross weight of 26,000 pounds or less.

(d) *Schedule of taxable gross weights for taxable periods beginning after June 30, 1969, and ending before July 1, 1984.* The following schedule of taxable gross weights, based on the sum of the weights referred to in paragraph (a) of this section, is hereby prescribed for taxable periods after June 30, 1969, and before July 1, 1984. Any highway motor vehicle which falls in one of the categories shown in the following schedule shall be considered, for purposes of the regulations in this part, to have the taxable gross weight assigned to such category. Any highway motor vehicle which does not fall in one of the categories shown in the following schedule shall be considered, for purposes of the regulations in this part, to have a taxable gross weight of 26,000 pounds or less.

Use Tax Schedule

	Taxable gross weight (in pounds)
1. *Single units:*	
(a) 2 axled truck equipped for use as a single unit with actual unloaded weight of 13,000 pounds or more	27,000
(b) 3 axled truck equipped for use as a single unit with actual unloaded weight of 13,000 pounds or more and less than 16,000 pounds	30,000
(c) 3 axled truck equipped for use as a single unit with actual unloaded weight of 16,000 pounds or more	40,000
(d) 4 axled truck equipped for use as a single unit with actual unloaded weight of less than 22,000 pounds	55,000
(e) 4 axled truck equipped for use as a single unit with actual unloaded weight of 22,000 pounds or more and less than 30,000 pounds	68,000
(f) 4 axled truck equipped for use as a single unit with actual unloaded weight of 30,000 pounds or more	80,000
(g) More than 4 axled truck equipped for use as a single unit	2.5 times actual unloaded weight.
2. *Tractor-trailer combinations:*	
(h) 2 axled truck-tractor with actual unloaded weight of 5,500 pounds or more and less than 7,000 pounds	30,000

Use Tax Schedule—Continued

	Taxable gross weight (in pounds)
(i) 2 axled truck-tractor with actual unloaded weight of 7,000 pounds or more and less than 9,500 pounds	40,000
(j) 2 axled truck-tractor with actual unloaded weight of 9,500 pounds or more and less than 11,000 pounds	50,000
(k) 2 axled truck-tractor with actual unloaded weight of 11,000 pounds or more	60,000
(l) 3 or 4 axled truck-tractor with actual unloaded weight of less than 13,000 pounds	65,000
(m) 3 or 4 axled truck-tractor with actual unloaded weight of 13,000 pounds or more and less than 17,000 pounds	70,000
(n) 3 or 4 axled truck-tractor with actual unloaded weight of 17,000 pounds or more	74,000
(o) More than 4 axled truck-tractor	4.5 times actual unloaded weight.
3. *Truck-trailer combinations:*	
(p) 2 axled truck with actual unloaded weight of 9,000 pounds or more and less than 12,000 pounds and equipped for use in combinations	40,000
(q) 2 axled truck with actual unloaded weight of 12,000 pounds or more and equipped for use in combinations	55,000
(r) 3 or 4 axled truck with actual unloaded weight of less than 14,000 pounds and equipped for use in combinations	65,000
(s) 3 or 4 axled truck with actual unloaded weight of 14,000 pounds or more and less than 19,000 pounds and equipped for use in combinations	74,000
(t) 3 or 4 axled truck with actual unloaded weight of 19,000 pounds or more and equipped for use in combinations	76,000
(u) More than 4 axled truck equipped for use in combinations	4.5 times actual unloaded weight.
4. Buses:	
Actual unloaded weight of vehicle plus 150 pounds for each unit of seating capacity provided for passengers and driver.	

(e) *Determination of taxable gross weight for taxable periods after June 30, 1985*—(1) *In general.* For purposes of the tax imposed by section 4481(a), the taxable gross weight of a highway motor vehicle shall be equal to the sum of the weights referred to in paragraph (a) of this section. The taxable gross weight of a highway motor vehicle shall be reported by the taxpayer on Form 2290 for any vehicle that has a taxable gross weight of 55,000 pounds or more. In the case of a highway motor vehicle that is registered in at least one State that requires a declaration of gross weight to be stated as a specific amount for any purpose (including proportional or prorate registration or the payment of any other fees or taxes), the taxable gross weight of such vehicle must be no less than the highest gross weight declaration (or combined gross weight declaration in the case of a tractor-trailer or truck-trailer combination) made by the registrant in any State with respect to such vehicle. If a highway motor vehicle is registered in at least one State that requires vehicles to register on the basis of gross weight and such vehicle is not registered in any State that requires a declaration of gross weight to be stated as a specific amount by the registrant, the taxable gross weight of such vehicle must fall within the highest gross weight category of such State for which such vehicle is registered during the taxable period. Declarations of weight made in order to obtain special temporary travel permits which allow a vehicle to, (i) operate in a State in which the vehicle is not registered or prorated, (ii) operate at more than a State's maximum statutory weight limit, or (iii) operate at more than the weight that the vehicle is registered in a State, shall not be considered in determining the taxable gross weight of a vehicle.

(2) *Buses.* For purposes of the tax imposed by section 4481(a), the taxable gross weight of a bus shall be the sum of the weights referred to in paragraph (a) of this section except that ''the weight of the maximum load customarily carried'' on a bus shall be equal to 150 pounds times the number of units of seating capacity provided for passengers and driver.

(f) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A is the owner of a truck-tractor. On January 1, 1985, A registers the truck-tractor in three states—X, Y, and Z. For purposes of registering the vehicle in State X, A declares the gross operating weight of his truck-tractor to be 60,000 pounds. The declaration of the gross weight of the vehicle at 50,000 pounds places A's truck-tractor in the State X registration category of 55,000 to 62,000 pounds gross weight. Thus, the registered weight of A's vehicle in State X is 62,000 pounds. At the same time as A registers the vehicle in State X, A also proportionally registers the vehicle under the IRP in State Y. A uses the same declared gross weight of 60,000 pounds for

purposes of the State Y proportional registration. Registration in State Y at this declared gross weight places A's truck-tractor in the State Y gross weight registration category of 58,000 to 68,000 pounds. Finally, A registers the truck-tractor in State Z. Registration of vehicles in State Z is based on the unladen weight of the vehicle. During the taxable period beginning on July 1, 1985, A's truck-tractor is not registered in any other state. For the taxable period beginning on July 1, 1985, A must declare a taxable gross weight of no less than 60,000 pounds for purposes of the tax imposed by section 4481(a) because that is the highest declared gross weight for state registration or other purposes. Should A declare to any State agency a higher gross operating weight with respect to the truck-tractor during the same taxable period (except for a special temporary permit), A would then be liable for additional tax as determined under paragraph (c)(3) of § 41.4481–1.

Example (2). Assume the same facts as in example (1), except that on one occasion during the taxable period, A was issued a special 2-day permit to use his truck-tractor in State Y to haul a load which would give A's unit a total gross weight of 80,000 pounds. A may still declare the taxable gross weight of his unit to be no less than 60,000 pounds because special permits to haul heavier loads on a temporary basis are not considered in determining the taxable gross weight of a vehicle.

Example (3). C owns and has registered in his name 2 trucks which are identical in all respects and which are used to carry the same type of load. The first vehicle is registered only in State X at a registered weight of 73,000 pounds based on a declared gross weight of 70,000 pounds. The second vehicle is registered only in State Y at a registered weight of 68,000 pounds based on a declared gross weight of 65,000 pounds. No other declarations of gross weight are made with respect to either vehicle. For purposes of the Federal heavy vehicle use tax, the taxable gross weight of the vehicle registered in State X may be declared at no less than 70,000 pounds and the taxable gross weight of the vehicle registered in State Y may be declared at no less than 65,000 pounds even though the vehicles are identical.

(Secs. 4482(b), 70 Stat. 390; 26 U.S.C. 4482 (b))

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7931, June 23, 1964; T.D. 7011, 34 FR 7448, May 8, 1969; T.D. 8027, 50 FR 21247, May 23, 1985]

§ 41.4482(b)–1T Schedule of taxable gross weights for the taxable period beginning July 1, 1984, and ending June 30, 1985 (temporary).

The following schedule of taxable gross weights, based on the sum of the weights referred to in § 41.4482(b)–1(a), is hereby prescribed for the taxable period beginning July 1, 1984. Any highway motor vehicle which falls in one of the categories shown in the following schedule shall be considered, for purposes of the regulations in this part, to have the taxable gross weight assigned to such category. Any highway motor vehicle which does not fall in one of the categories shown in the following schedule shall be considered, for purposes of the regulations in this part, to have a taxable gross weight of less than 55,000 pounds.

Use Tax Schedule

	Taxable gross weight (in pounds)
1. Single units:	
(a) 4 axled truck equipped for use as a single unit with actual unloaded weight of less than 22,000 pounds	55,000
(b) 4 axled truck equipped for use as a single unit with actual unloaded weight of 22,000 pounds or more and less than 30,000 pounds	68,000
(c) 4 axled truck equipped for use as a single unit with actual unloaded weight of 30,000 pounds or more	80,000
(d) More than 4 axled truck equipped for use as a single unit	80,000
2. Tractor-trailer combinations:	
(e) 2 axled truck-tractor with actual unloaded weight of 11,000 pounds or more	60,000
(f) 3 or 4 axled truck-tractor with actual unloaded weight of less than 13,000 pounds	65,000
(g) 3 or 4 axled truck-tractor with actual unloaded weight of 13,000 pounds or more and less than 17,000 pounds	70,000
(h) 3 or 4 axled truck-tractor with actual unloaded weight of 17,000 pounds or more	74,000
(i) More than 4 axled truck-tractor	80,000
3. Tractor-trailer-trailer combinations:	
(j) 2 or more axled truck-tractor used to haul more than one trailer	80,000
4. Truck-trailer combinations:	
(k) 2 axled truck with actual unloaded weight of 12,000 pounds or more and equipped for use in combinations	55,000
(l) 3 or 4 axled truck with actual unloaded weight of less than 14,000 pounds and equipped for use in combinations	65,000
(m) 3 to 4 axled truck with actual unloaded weight of 14,000 pounds or more and less than 19,000 pounds and equipped for use in combinations	74,000

Use Tax Schedule—Continued

	Taxable gross weight (in pounds)
(n) 3 or 4 axled truck with actual unloaded weight of 19,000 pounds or more and equipped for use in combinations	76,000
(o) More than 4 axled truck equipped for use in combinations	80,000
5. Buses: Actual unloaded weight of vehicle plus 150 pounds for each unit of seating capacity provided for passengers and driver.	

(Secs. 4051(d)(2)(B)(ii) (98 Stat. 1009; 26 U.S.C. 4051(d)(2)(B)(ii), 4483(d) (96 Stat. 2178; 26 U.S.C. 4483(d)), and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

[T.D. 7970, 49 FR 34470, Aug. 31, 1984]

§ 41.4482(c)–1 Definition of State, taxable period and use.

(a) *State.* The term ''State'', as used in the regulations in this part, means any one of the several States, the Territories of Alaska and Hawaii prior to their admission into the Union as States, or the District of Columbia.

(b) *Taxable period.* The term ''taxable period'', as used in the regulations in this part, means (1) any one-year period beginning with July 1 and ending with the following June 30 during the period after June 30, 1956, and before July 1, 1993, and (2) the three-month period beginning with July 1, 1993, and ending with September 30, 1993. In the event the tax imposed by section 4481(a) is extended to apply to use after September 30, 1993, the term ''taxable period'' shall mean (1) any one-year period beginning with July 1 and ending with the following June 30 during which the tax applies, and (2) the period, if any, less than one year in length beginning with July 1 and ending with the date the tax ceases to apply.

(c) *Use.* The term ''use'', as used in the regulations in this part with reference to a highway motor vehicle, means the use of the highway motor vehicle on the public highways in the United States, that is, operation of the vehicle, by means of its own motor, on any roadway (whether a Federal highway, State highway, city street, or otherwise) in the United States which is not a private roadway. Thus, for purposes of the tax, there is no use of a highway motor vehicle while the vehicle is in ''dead storage''. The term ''use'' does not include operation of a new highway motor vehicle on a public highway in the United States if such operation is merely for the purpose of transporting the vehicle from the point of manufacture or assembly to the consumer, whether direct or with intermediate deliveries to such points as are involved in the distribution process. For example, operation of a new vehicle for the purpose of delivering it from the factory to a branch establishment of the manufacturer, or from the factory or branch establishment to a dealer, distributor, or consumer, does not constitute use of the vehicle within the meaning of the regulations in this part; likewise, the further operation of the vehicle by a dealer or distributor for the purpose of delivering the vehicle to a consumer does not constitute use of the vehicle. Similarly, the operation of a secondhand highway motor vehicle by a dealer or distributor for the purpose of delivering the vehicle to a purchaser does not constitute use of the vehicle within the meaning of the regulations in this part. Furthermore, the term ''use'' does not include operation of a new or secondhand highway motor vehicle, if such operation is exclusively for the purpose of demonstration of the vehicle by a dealer in, or distributor of, new or secondhand highway motor vehicles. Operation of a highway motor vehicle on a private roadway, or other private property, does not constitute use of the vehicle within the meaning of the regulations in this part.

(d) *Customary use.* For taxable periods beginning after June 30, 1984, the term ''customary use'' as used in the regulations in this part, means that a semitrailer or trailer shall be treated as customarily used in connection with a highway motor vehicle if the vehicle is equipped to tow such semitrailer or trailer.

[T.D. 7409, 41 FR 9877, Mar. 8, 1976, as amended by T.D. 7505, 42 FR 42856, Aug. 25, 1977; T.D. 8027, 50 FR 21248, May 23, 1985; T.D. 8159, 52 FR 33584, Sept. 4, 1987]

§ 41.4483–1 State and local governmental exemption.

Use by any State or any political subdivision thereof of any highway motor vehicle is exempt from the tax imposed by section 4481. For definition of the term ''State'', see § 41.4482(c)–1. For purposes of this section, the term ''use by any State or any political subdivision thereof'' means the operation by any State or any political subdivision thereof on the public highways in the United States of any highway motor vehicle, whether or not such highway motor vehicle is owned by the State or the political subdivision.

§ 41.4483–2 Exemption for certain transit-type buses.

(a) *In general.* Use in any taxable period, or part thereof, of any bus of the transit type by any person who is engaged in the operation of a transit system is exempt from the tax, if such person meets the 60-percent passenger fare revenue test provided for in section 6421(b)(2), as set forth in paragraph (e) of this section, for the applicable period prescribed in paragraph (c) of this section as the test period for such person for such system for such taxable period, or part thereof.

(b) *Buses of the transit type.* The term ''transit type'', when used in the regulations in this part with reference to a bus, means the type of bus which is designed for the mass transportation of persons within an urban area, as distinguished from the intercity-type bus. A transit-type bus is ordinarily distinguishable from an intercity-type bus by comparison of seats, doors, and baggage facilities. The transit-type bus usually has straight-back seats of the bench type, while the intercity-type bus generally has seats which either can be reclined or are in fact permanently fixed in a reclining position. The transit-type bus is more likely to have an accordion or folding-type door at the front of the bus, and often has a second door in the middle or at the rear for passengers to leave the bus, as opposed to the emergency-type rear door which may or may not be included in the intercity-type bus. The typical transit-type bus does not have facilities for storing baggage whereas the typical intercity-type bus has facilities for storing baggage in a compartment underneath the floor of the bus or in overhead racks, or both. Other characteristics which may be taken into account in distinguishing a transit-type bus from an intercity-type bus include gear ratios, acceleration and maximum speed, and aisle space for standees. The transit-type bus ordinarily has a lower gear ratio to provide for quick starts and because, in general, buses of this type are operated at low speeds. The intercity-type bus ordinarily has a higher gear ratio and can be operated at much higher speeds. The transit-type bus usually has wider aisles, with overhead straps or bars to accommodate standees.

(c) *Test period.* (1) In the case of any person who is engaged in the operation of a transit system at any time in the calendar quarter immediately preceding July 1 of any taxable period, the test period for such system for such taxable period shall be such calendar quarter. However, if passenger fare revenue from scheduled service described in paragraph (e) of this section was derived on less than 30 days during such calendar quarter from operation of such system, the test period for such system for such taxable period shall be the last preceding test period for such system. If such system has no preceding test period, then the test period for such system for such taxable period shall be the calendar quarter beginning with July 1 of such taxable period.

(2) Except as otherwise provided in subparagraph (3) of this paragraph, in the case of any person who commences operation of a transit system at any time on or after July 1 of any taxable period the test period for such system for that part of such taxable period beginning with the first day on which such operation was commenced shall be the calendar quarter in which falls such first day. However, if passenger fare revenue from scheduled service described in paragraph (e) of this section was derived on less than 30 days during such calendar quarter from operation of such system, the test period for such system for such taxable period shall be the following calendar quarter.

(3) In the case of any person who commences operation of a transit system at any time in the last calendar

quarter to which the tax imposed by section 4481 applies, such last calendar quarter shall be the test period for such transit system regardless of the number of days in which passenger fare revenue is derived in such calendar quarter.

(d) *Transit system.* The term ''transit system'', as used in the regulations in this part, means any system for furnishing scheduled common carrier public passenger land transportation service along regular routes.

(e) *60-percent passenger fare revenue test.* For purposes of this section, a person engaged in the operation of a transit system meets the 60-percent passenger fare revenue test set forth in section 6421(b)(2), for the applicable test period prescribed in this section, if:

(1) During such test period (rather than any different period prescribed in section 6421(b)(2)) such person derived passenger fare revenue from the operation of such system, and

(2) At least 60 percent of the total of such passenger fare revenue derived by such person during such test period was attributable to (i) amounts paid for transportation which do not exceed 60 cents, (ii) amounts paid for commutation or season tickets for single trips of less than 30 miles, or (iii) amounts paid for commutation tickets for one month or less (see section 4263(a)). In determining the total of such passenger fare revenue, the tax imposed by section 4261 is not to be taken into account for that purpose, nor is revenue from such sources as charter fees, rentals of property, advertising receipts, etc., to be included for that purpose.

(f) *Examples.* Application of this section may be illustrated by the following examples:

Example (1). The X Transit Company is engaged in the operation of a transit system in the city of A and surrounding area throughout April, May, and June of 1984 and the taxable period beginning July 1, 1984. It derives passenger fare revenue from the operation of such system for 15 days in April and for the entire months of May and June of 1984. On July 1, 1984, the Company is using 60 buses of the transit type and 40 buses of the intercity type. Each of 20 of the transit-type buses and each of 10 of the intercity-type buses has a taxable gross weight of less than 55,000 pounds. (No tax is imposed on the use of either a transit-type bus or an intercity-type bus having a taxable gross weight of less than 55,000 pounds. See § 41.4481–1.) Use of the 10 intercity-type buses is subject to the tax for the taxable period beginning with July 1, 1984, since the exemption, if any, applies only to transit-type buses. Use of the 20 transit-type buses is not subject to the tax for such taxable period if at least 60 percent of the total passenger fare revenue (not including any tax on the transportation of persons imposed by section 4261) derived by the X Transit Company during April, May, and June of 1984 (the test period prescribed in paragraph (c) (1) of this section) from operation of such system was from fares attributable to (i) amounts paid for transportation which do not exceed 60 cents, (ii) amounts paid for commutation or season tickets for single trips of less than 30 miles, or (iii) amounts paid for commutation tickets for one month or less. If the X Transit Company does not meet the 60-percent passenger fare revenue test for April, May, and June of 1984, the tax attaches for the taxable period beginning with July 1, 1984, with respect to the use of each of the 20 transit-type buses having a taxable gross weight of more than less than 55,000 pounds.

Example (2). Assume the same facts as those stated in Example (1), except that the X Transit Company commences operation of the transit system on July 15, 1984, and derives passenger fare revenue from operation of the system throughout the following August and September. In such case, the test period is July, August, and September of 1984, and if the test is met for this period, no tax is imposed on the use by the Company of any bus of the transit type in the period July 15, 1984, through June 30, 1985.

Example (3). Assume the same facts as those stated in Example (1), except that the X Transit Company commences operation of the transit system on April 15, 1985, and derives passenger fare revenue from operation of the system throughout the following May and June. In such case the test period is April, May, and June of 1985, and if the test is met for this period, no tax is imposed on the use by the Company of any bus of the transit type in the period April 15 through June of 1985, or in the taxable period beginning on July 1, 1985.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7931, June 23, 1964; T.D. 8027, 50 FR 21248, May 23, 1985]

§41.4483–3 Exemption for trucks used for 5,000 or fewer miles and agricultural vehicles used for 7,500 or fewer miles on public highways.

(a) *Suspension of tax*—(1) *In general.* Liability for the tax imposed by section 4481(a) is suspended during a taxable period if it is reasonable to expect that the vehicle will be used for 5,000 or fewer miles on public highways during such taxable period and the owner furnishes in the time and manner required the information required under paragraph (a)(2) of this section. See paragraph (g) of this section regarding special rules for agricultural vehicles. See §41.4482(c)–1(c) for the meaning of ''use'' on the public highways.

(2) *Information to be supplied in support of suspension of tax.* The owner of a highway motor vehicle who reasonably expects that the vehicle will be used for 5,000 or fewer miles on public highways during a taxable period shall furnish on the first Form 2290 (Federal Heavy Vehicle Use Tax Return) filed during the taxable period for such motor vehicle, such information as is required by the Form in order to support the suspension of tax under paragraph (a) of this section.

(b) *Cessation of suspension from tax.* If a highway motor vehicle on which the tax under section 4481(a) is suspended for a particular taxable period under paragraph (a)(1) of this section is used for more than 5,000 miles on public highways during such taxable period, the owner of the vehicle shall pay the tax for the entire taxable period in accordance with section 4481(a). The tax shall be reported on a Form 2290, which must be filed on or before the last day of the month immediately following the month in which the use of the vehicle during the taxable period exceeds 5,000 miles. If such Form is filed within the time required by the preceding sentence, it shall be treated as timely filed.

(c) *Exemption.* If at the end of any taxable period during which the tax under section 4481(a) on a highway motor vehicle was suspended under paragraph (a)(1) of this section the vehicle has not been used for more than 5,000 miles on public highways, the vehicle shall be exempt from the tax for that taxable period. The owner of the vehicle shall verify that the vehicle was used for less than 5,000 miles in such ended taxable period on the first Form 2290 filed for the next taxable period.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A is the owner of 6 highway motor vehicles, each of which has a taxable gross weight in excess of 55,000 pounds. None of these 6 vehicles are agricultural vehicles. The vehicles are placed in use during July 1984. Because of the nature of his business, A reports on the first Form 2290 filed after June 30, 1984, that he reasonably expects that none of the vehicles will be used for more than 5,000 miles on public highways. Accordingly, the tax imposed by section 4481(a) is suspended for A's 6 vehicles for the taxable priod July 1, 1984, through June 30, 1985.

Example (2). Assume the same facts as in example (1) except that during the month of February 1985, the use of one of A's vehicles exceeds 5,000 miles on public highways. A is liable for the full tax for the taxable period July 1, 1984, through June 30, 1985, for that vehicle at the rate set forth in §41.4481–1(b), and must so report on a Form 2290 filed on or before March 31, 1985, the last day of the month following the month in which the use exceeds 5,000 miles.

(e) *Credit or refund of tax for highway motor vehicle used 5,000 or fewer miles.* (1) If a highway motor vehicle on which the tax imposed by section 4481(a) has been paid for a given taxable period is used for 5,000 or fewer miles on public highways during such taxable period, the person who paid the tax may file a claim for refund of an overpayment of the tax at the end of the taxable period. Claims for refunds of tax made under this paragraph (e) shall be filed in the same manner as claims for refunds filed under §41.4481–1(d). Refunds of tax made under this paragraph (e) shall be without interest.

(2) Any person entitled to claim a refund of tax under paragraph (e)(1) of this section may, in lieu of claiming a refund of such tax, claim credit for such tax on the first Form 2290 filed for the next taxable period.

(f) *Relief from liability for tax under certain circumstances.* If the tax imposed by section 4481(a) on a highway motor vehicle is suspended for any taxable period under paragraph (a) of this section and the vehicle is transferred while the suspension is in effect, the transferor

will not be liable for any tax on such vehicle for such taxable period if such transferor furnishes a statement to the transferee on which is included the transferor's name, address and taxpayer identification number, the vehicle identification number, the date of transfer of the vehicle, the number of miles the vehicle has been used on the public highways during the taxable period, the odometer reading at the time of the transfer, and the name, address and taxpayer identification number of the transferee. The statement required in the preceding sentence shall be attached by the transferee to a Form 2290 which must be filed on or before the last day of the month following the month in which such vehicle is transferred. The suspension from tax under paragraph (a) continues until the vehicle is used on the public highways for more than 5,000 miles during the taxable period (including use by the transferor for the portion of the taxable period prior to the transfer). If the transferor has furnished the statement required in this paragraph (f), the transferee and not the transferor is liable for the entire tax under section 4481(a) for the taxable period in which the transfer was made. If the transferor has not furnished such statement to the transferee, then the transferor is also liable for the tax on the use of such vehicle for such taxable period to the extent that the tax or an installment payment of the tax has not been previously paid. See paragraph (b) of this section relating to cessation of suspension from tax.

(g) *Special rule for agricultural vehicles*—(1) *In general.* In applying the provisions of this section to an agricultural vehicle, ''7,500'' shall be substituted for ''5,000'' each place it appears in paragraphs (a) through (f) of this section.

(2) *Meaning of terms*—(i) *Agriculture vehicle.* An agricultural vehicle is any highway motor vehicle—

(A) Used (or expected to be used) primarily for farming purposes, and

(B) Registered (under the laws of the State or States in which such vehicle is required to be registered) as a highway motor vehicle used for farming purposes.

A highway motor vehicle is used primarily for farming purposes if more than one-half of such vehicle's use (determined on the basis of mileage) during the taxable period is for farming purposes. Further, the highway motor vehicle must be registered (under the laws of the State or States where such vehicle is required to be registered) as a highway motor vehicle used for farming purposes for the entire taxable period in order to qualify as an agricultural vehicle. See § 41.4482(a)–(1) for the definition of ''highway motor vehicle''. A vehicle will be considered to be registered under the laws of the State as a highway motor vehicle used for farming purposes if such vehicle is so registered under a State statute or legally valid regulations. In addition, no special tag or license plate identifying a vehicle as being used for farming purposes is required.

(ii) *Farming purposes.* For purposes of this section, ''farming purposes'' means the transporting of any farm commodity to or from a farm, or the use directly in agricultural production.

(iii) *Farm commodity.* A ''farm commodity'' is any agricultural or horticultural commodity, feed, seed, fertilizer, livestock, bees, poultry, furbearing animals, or wildlife. A farm commodity does not include a commodity which has been changed by a processing operation from its raw or natural state. For example, juice which has been extracted from fruits or vegetables is not a farm commodity for purposes of this paragraph (g).

(iv) *Farm.* The term ''farm'' includes stock (including feed yards for fattening cattle), dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of any agricultural or horticultural commodity. Greenhouses and other similar structures used primarily for purposes other than the raising of agricultural or horticultural commodities (for example, display, storage, or fabrication of wreaths, corsages, and bouquets) do not constitute ''farms''.

(v) *Agricultural production*—(A) *In general.* A highway motor vehicle is

considered to be used directly in agricultural production only if it is used as indicated in the following paragraphs.

(B) *Use of a highway motor vehicle in connection with cultivating, raising, and harvesting.* A highway motor vehicle is considered to be used directly in agricultural production if such vehicle is used in connection with cultivating the soil, or raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry, and fur-bearing animals and wildlife. A highway motor vehicle which is used in connection with operations such as canning, freezing, packaging, or other processing operations will not be considered to be used directly in agricultural production.

(C) *Use of a highway motor vehicle in connection with planting, cultivation, caring for, cutting, etc., of trees.* A highway motor vehicle is used directly for agricultural production if it is used in connection with planting, cultivating, caring for, or cutting of trees, or in connection with the preparation (other than milling) of trees for market; but only if such operations are incidental to farming operations. These farming operations include felling trees and cutting them into logs or firewood, but do not include sawing logs into lumber, chipping, or other milling operations. The operations specified in this paragraph (g)(2)(v)(C) will be considered ''incidental to farming operations'' only if they are of a minor nature in comparison with the total farming operations involved. Therefore, a treefarmer or timbergrower may not claim that a highway motor vehicle used in that trade or business is used directly in agricultural production.

(D) *Use of a highway motor vehicle in connection with the operation, management, conservation, improvement, or maintenance of a farm.* A highway motor vehicle is used directly for agricultural production if it is used in connection with the operation, management, conservation, improvement, or maintenance of a farm and its tools and equipment. Examples of these operations include clearing land, repairing fences and farm buildings, building terraces or irrigation ditches, cleaning tools or farm machinery, painting, and other activities which contribute in any way to the conduct of a farm as such, as distinguished from any other enterprise in which the owner of the highway motor vehicle may be engaged.

(3) *Mileage on farm not counted toward 7,500 mile limit.* For purposes of this section, the number of miles which a highway motor vehicle is driven on a farm and not on the public highways shall not be taken into account when determining whether the vehicle's mileage is in excess of 7,500 miles. Accurate records should be kept by taxpayers of the number of miles that a highway motor vehicle is operated on a farm.

(h) *Owner.* For purposes of this section the term ''owner'' means, with respect to any highway motor vehicle, the person described in section 4481(b).

[T.D. 8027, 50 FR 21248, May 23, 1985]

§41.4483–4 Application of exemptions.

Any exemption from the tax on the use of a highway motor vehicle has application only with respect to the use of such highway motor vehicle and not with respect to the highway motor vehicle as such. Furthermore, such exemption is subject to those provisions of paragraph (c) of §41.4481–1 relating to proration of the tax and to the effect of an exempt use of a highway motor vehicle after a taxable use has been made. Thus, if a taxable use is made of a highway motor vehicle at any time in a taxable period, the tax is imposed on the use of such vehicle for such taxable period, computed from the first day of the month in which such taxable use occurred, even though at some time in the same taxable period, before or after such taxable use occurred, the use of the vehicle may have been, or may be, exempt. For example, if a highway motor vehicle is operated exclusively by a State in the period July 1 through September 10 of a taxable period, use of such vehicle in such period is exempt from the tax. However, if a taxable use of the vehicle is made on September 11 of such taxable period, the tax imposed on the use of such vehicle for such taxable period is computed from September 1. On the other hand, if a taxable use of the vehicle is made at any time in July of the taxable period, the tax

imposed on the use of such vehicle for such taxable period is computed from July 1, even though the vehicle may be operated exclusively by a State in every other month of such period.

[T.D. 6743, 29 FR 7931, June 23, 1964. Redesignated by T.D. 8027, 50 FR 21248, May 23, 1985]

§ 41.4483–5 Termination of exemptions.

The exemptions described in §§ 41.4483–1 and 41.4483–2 shall not apply on and after October 1, 1993.

[T.D. 8027, 50 FR 21250, May 23, 1985, as amended by T.D. 8159, 52 FR 33584, Sept. 4, 1987]

§ 41.4483–6 Reduction in tax for trucks used in logging.

(a) *In general.* The tax imposed by section 4481 shall be reduced by 25 percent in the case of a truck used in logging.

(b) *Truck used in logging.* The term ''truck used in logging'' means any highway motor vehicle which—

(1) Is used exclusively during the taxable period for the transportation, to and from a point located on a forested site, of products harvested from such forested site, and

(2) Is registered (under the laws of the State or States in which such vehicle is required to be registered) as a highway motor vehicle used exclusively in the transportation of harvested forest products.

Products harvested from the forested site may include timber which has been processed for commercial use by sawing into lumber, chipping or other milling operations if such processing occurs prior to transportation from the forested site. A vehicle will be considered to be registered under the laws of a state as a highway motor vehicle used exclusively in the transportation of harvested forest products if such vehicle is so registered under a state statute or legally valid regulations. In addition, no special tag or license plate identifying a vehicle as being used in the transportation of harvested forest products is required.

[T.D. 8027, 50 FR 21250, May 23, 1985]

§ 41.4483–7 Reduction in tax for vehicles registered in a contiguous foreign country.

(a) *In general.* In the case of a highway motor vehicle that, for any taxable period, has a base for registration purposes in a contiguous foreign country, the tax imposed by section 4481 for such taxable period shall be 75 percent of the tax that would be imposed but for this section. A highway motor vehicle has a base for registration purposes in a contiguous foreign country in any taxable period in which such vehicle is registered under the laws of a contiguous foreign country and such vehicle is not registered under the laws of any of the United States other than proportionately registered under a proration agreement (such as the International Registration Plan). A highway motor vehicle is not considered to have a base for registration purposes in a contiguous foreign country in any taxable period in which such vehicle is registered under the laws of any of the United States and such State is required under § 41.6001–2(b) to receive proof of payment of the tax imposed by section 4481(a) with respect to such highway motor vehicle. For purposes of this paragraph (a), a highway motor vehicle that is allowed to operate in a State under a reciprocity agreement is not considered to be registered under the laws of that State.

(b) *Contiguous foreign country.* The term ''contiguous foreign country'' means Canada or Mexico.

[T.D. 8159, 52 FR 33584, Sept. 4, 1987, as amended by T.D. 8177, 53 FR 6626, Mar. 2, 1988]

§ 41.4484–1 Administrative provisions.

For administrative provisions relating to the tax on the use of certain highway motor vehicles, see Subpart C of this part and the applicable sections

of the regulations on procedure and administration (Part 301 of this chapter).

Subpart C—Administrative Provisions of Special Application to Tax On Use of Certain Highway Motor Vehicles

§41.6001–1 Records.

(a) *Records to be kept.* Every person in whose name a highway motor vehicle having a taxable gross weight of at least 55,000 pounds is registered or required to be registered at any time during the taxable period shall keep records sufficient to enable the district director to determine whether such person is liable for the tax and, if so, the amount thereof. See §41.4482(b)–1 for the definition of taxable gross weight. Such records shall show with respect to each such vehicle:

(1) A description of the vehicle (including serial number or manufacturer's number) in sufficient detail to permit positive identification of the vehicle.

(2) The weight of the loads carried by the vehicle in such form as is required under the laws of any State in which the vehicle is registered or required to be registered, in order to permit verification of such vehicle's taxable gross weight.

(3) In the case of any such vehicle acquired after June 30, 1956, the date on which such person acquired such vehicle and the name and address of the person from whom the vehicle was acquired.

(4) The first month of each taxable period in which occurred a taxable use of each such vehicle while the vehicle was registered in the name of such person; information showing whether such vehicle was operated, while registered in the name of such person, in any prior month in such taxable period; and if such vehicle was so operated, evidence establishing that such operation was not a taxable use.

(5) The date of sale or other transfer to another of any such vehicle, together with the name and address of the person to whom transferred.

(6) In the case of any such vehicle disposed of otherwise than by sale or other transfer (including disposition by theft or destruction for taxable periods after June 30, 1984), the date and method of disposition of the vehicle.

(7) In the case of a secondhand highway motor vehicle acquired at any time in the taxable period, evidence showing whether there was a prior taxable use in such taxable period of the highway motor vehicle (see paragraph (b) of §41.4481–2) or, for taxable periods after June 30, 1984, whether there was a suspension of tax in effect (see §41.4483–3). For filing requirements of purchaser of second-hand vehicle, see paragraph (b) of §41.6011(a)–1.

(8) A copy of each return, schedule, statement, or other document filed, pursuant to the regulations in this part or in accordance with the instructions applicable to any form prescribed thereunder, by the person required to keep such records.

(b) *Transit systems.* Every person engaged in the operation of a transit system who claims exemption from tax with respect to a transit-type bus shall keep records sufficient to show, with respect to each taxable period, whether he meets the 60-percent passenger fare revenue test (see paragraph (e) of §41.4483–2) for the period prescribed as the test period (see paragraph (c) of §41.4483–2) for such system for such taxable period.

(c) *Exemption for vehicles used 5,000 miles or less.* The owner of a highway motor vehicle who reasonably expects the vehicle to be exempt from the tax under section 4481(a) by reason of §41.4483–3(c) for a given taxable period shall keep records which indicate the reason that the use of the vehicle is not expected to exceed 5,000 miles on public highways.

(d) *Records of claimants.* Any person claiming refund, credit, or abatement of the tax, interest, additional amount, addition to the tax, or assessable penalty, shall keep a complete and detailed record with respect to the claim.

(e) *Place and period for keeping records.* (1) All records required by the regulations in this part shall be kept, by the person required to keep them, at a convenient and safe location within the United States which is accessible to internal revenue officers. Such records shall at all times be available for inspection by such officers. If such person has a principal place of business

in the United States, the records shall be kept at such place of business.

(2) Records required by paragraph (a) of this section shall be maintained for a period of at least 3 years after the date the tax becomes due or the date the tax is paid, whichever is the later. Records required by paragraphs (b) and (c) of this section shall be maintained for a period of at least 3 years after the end of the taxable period for which such exemption applies. Records required by paragraph (d) of this section (including any record required by paragraphs (a), (b), or (c) of this section which relates to a claim) shall be maintained for a period of at least 3 years after the date the claim is filed.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7932, June 23, 1964; T.D. 8027, 50 FR 21250, May 23, 1985]

§ 41.6001–2 Proof of payment for State registration purposes.

(a) *In general.* This section sets forth the circumstances under which a State must require proof of payment of the tax imposed by section 4481(a), and the required manner in which such proof of payment is to be received by the State as a condition of issuing a registration for a highway motor vehicle. A State must either comply with the provisions of this section or, in the alternative, comply with such other rules regarding the satisfaction of this proof of payment requirement as may be prescribed by the Commissioner (by Revenue Procedure or otherwise), in order to avoid a reduction of Federal-aid highway funds apportioned under 23 U.S.C. 104(b)(5). The rules of this section apply to highway motor vehicles for which applications for registration are received by a State on or after October 1, 1985. For purposes of this section, an application for registration which is mailed will be considered to be received by a State on the date on which it is postmarked.

(b) *Proof of payment required*—(1) *In general.* A State to which an application is made to register a highway motor vehicle must receive from the registrant proof of payment of the tax imposed by section 4481(a) (or proof of suspension of such tax under § 41.4483–3) unless otherwise provided in this paragraph (b)(1), or paragraph (b)(2) or (5) of this section. See paragraph (c) of this section for the meaning of ''proof of payment''. Such proof of payment must be received by the State before the State issues a registration for such vehicle unless the State is using a system of registration provided in paragraph (b)(3) of this section. The term ''proof of payment'', when used in this section, shall be considered to refer in appropriate cases to proof of suspension of the tax imposed by section 4481(a). Except as provided in paragraph (b)(4) of this section, any proof of payment presented to a State must relate to tax paid (or suspended under § 41.4483–3) for the taxable period which includes the date that the State receives the application for registration. A ''base state'' must be presented proof of payment when issuing an ''apportioned plate'' under the International Registration Plan (IRP) (or similar agreement) for a highway motor vehicle, but no proof of payment of the tax imposed by section 4481(a) is required to be presented to the other states for which the vehicle is proportionally registered and which are listed on the IRP cab card issued by the base state. Further, a State is not required to receive proof of payment in order to issue special temporary travel permits which allow a vehicle to, (i) operate in a State in which the vehicle is not registered (including proportional or prorate registration), (ii) operate at more than the State's maximum statutory weight limit, or (iii) operate at more than the weight that the vehicle is registered in a State. Further, a State may register a highway motor vehicle without proof of payment if the person registering the vehicle presents the original or a photocopy of a bill of sale (or other document evidencing transfer) indicating that the vehicle was purchased by the owner either as a new or used vehicle during the preceding 60 days before the date that the State receives the application for registration of such vehicle.

(2) *States required to receive proof of payment with respect to vehicles subject to tax*—(i) *Registration in States that register vehicles on the basis of gross weight.* A State that registers vehicles on the basis of gross weight must require proof of payment with respect to any

highway motor vehicle that has a declared gross weight in that State of 55,000 pounds or more. If no declaration of a specific gross weight is made with respect to a highway motor vehicle registered on the basis of gross weight, then the State must require proof of payment with respect to such vehicle if the minimum weight of the registered weight category for such vehicle is 55,000 pounds or more. No such proof of payment is required for any vehicle that does not have a declared gross weight in that State of 55,000 pounds or more.

(ii) *Registration in States that register vehicles other than on the basis of gross weight.* A State that registers vehicles other than on the basis of gross weight must require proof of payment in order to register a highway motor vehicle unless the State receives a written statement stating that during the taxable period which includes the date on which the State receives the application for registration, such vehicle had a taxable gross weight of less than 55,000 pounds. The written statement must state the number of vehicles being registered that have a taxable gross weight of less than 55,000 pounds and must be signed by the person registering the vehicles. A State may register a highway motor vehicle without receiving either proof of payment or a written statement as described above if such vehicle has an unladen weight of 8,000 pounds or less. However, the State must require proof of payment when issuing a ''base plate'' registration for a vehicle if a gross weight declaration of 55,000 pounds or more is made to the State with respect to such vehicle in order to proportionally register the vehicle in another State under the IRP.

(iii) *State may require additional proof.* Nothing contained in this section shall prohibit a State from refusing to register a highway motor vehicle without additional proof that the vehicle is not subject to tax under section 4481(a) even though the person registering the vehicle submits a written statement declaring that the taxable gross weight of such vehicle is less than 55,000 pounds.

(3) *Suspension registration system.* A State may issue a registration with respect to any or all highway motor vehicles subject to tax under section 4481(a) without receiving proof of payment if such vehicles are registered under a ''suspension'' registration system. Registration of a vehicle subject to tax under a suspension system must be on the condition that, (i) the State receive proof of payment with respect to such vehicle no later than 4 months (or any lesser time to be determined by the State) after the beginning of the vehicle's registration period, and (ii) the State's system provides for the automatic suspension (*e.g.* through the use of computer-generated notices) of such vehicle's registration if no proof of payment is received within the required time. Following such a suspension of registration, the State must not allow the vehicle to be registered until valid proof of payment is received. A State may either register all vehicles subject to tax under section 4481(a) in the manner described in this paragraph (b)(3) or adopt this manner of registration only in situations which the State deems appropriate. A State that registers vehicles other than on the basis of gross weight may also register vehicles not subject to tax under a suspension registration system for purposes of receiving the written statement described in paragraph (b)(2)(ii).

(4) *Registration during certain months.* In the case of a highway motor vehicle subject to tax under section 4481(a) for which a State receives an application for registration during the months of July, August or September, proof of payment for the immediately preceding taxable period may be used to verify payment of the tax imposed by section 4481(a).

(5) *Registration in a State several times during the taxable period.* A State is required to receive proof of payment with respect to a highway motor vehicle subject to tax under section 4481(a) only once during a taxable period. Thus, in the case of a State that allows a highway motor vehicle to be registered on a quarterly basis, rather than annually, proof of payment will be required to be presented to the State only once during the taxable period. The State may designate any one of the four quarterly registration periods as the time for submitting proof of payment.

(6) *Proof of payment records.* See 23 CFR Part 669 for a description of the supporting documentation and records that will be required by the Federal Highway Administration (FHWA) in order to allow the FHWA to verify that the State is in compliance with the rules of this section.

(c) *Proof of payment*—(1) *In general.* (i) The proof of payment required in paragraph (b) of this section shall consist of a receipted Schedule 1 (Form 2290) that is returned by the Internal Revenue Service to a taxpayer who files a return of tax under section 4481(a) and pays the amount of tax (or installment thereof) due with such return. A photocopy of such receipted Schedule 1 shall also serve as proof of payment. Such Schedule 1 shall serve as proof of suspension of such tax under §41.4483–3 for the number of vehicles entered in that part of the Schedule 1 designated for vehicles for which tax has been suspended. Except as provided in paragraph (c)(1)(ii) of this section, the vehicle identification number of the vehicle being registered must appear on the Schedule 1 (or an attached page) in order for the Schedule 1 to be a valid proof of payment for such vehicle.

(ii) If a receipted Schedule 1 is submitted as proof of payment for the registration of one or more highway motor vehicles and—

(A)(*1*) The total of the number of vehicles on such Schedule 1 for which tax has not been suspended under §41.4483–3 exceeds 21, or

(*2*) The total of the number of vehicles on such Schedule 1 for which tax has been suspended under §41.4483–3 exceeds 9, and

(B) The name of the taxpayer appearing on such Schedule 1 is one of the names in which such vehicles are sought to be registered,

such Schedule 1 shall be accepted as proof of payment in support of the registration of a number of vehicles equal to or less than such total and a list of the vehicles (or their vehicle identification numbers) is not required as part of such proof of payment.

(iii) If a Schedule 1 which does not include a list of vehicle identification numbers is submitted as proof of payment for the registration of one or more highway motor vehicles and the name of the taxpayer appearing on such Schedule 1 is not one of the names in which such vehicles are sought to be registered then such Schedule 1 shall be accepted as proof of payment in support of the registration of a number of vehicles equal to or less than the total number of vehicles on such Schedule 1 provided the Schedule 1 is accompanied by a written statement executed by the taxpayer. Such written statement shall contain the vehicle identification numbers of the vehicles sought to be registered and a statement that the tax under section 4481(a) has been paid with respect to such vehicles for the taxable period. The statement must be signed by the taxpayer whose name appears on the Schedule 1.

(2) *Acceptable substitute for receipted Schedule 1.* For purposes of this section, a State shall accept as proof of payment a photocopy of the Form 2290 (with the Schedule 1 attached) which was filed with the Internal Revenue Service for the vehicle being registered with sufficient documentation of payment of tax due at the time the Form 2290 was filed (such as a photocopy of both sides of a cancelled check). This substitute proof of payment may be used to register a vehicle when, for example, the receipted Schedule 1 has been lost, or when at the time required for registration of a vehicle, a receipted Schedule 1 has not been received by a taxpayer who has filed a Form 2290 with respect to such vehicle. The rules of paragraph (c)(1)(ii) of this section regarding the circumstances in which a list of vehicle identification numbers is not required as part of a valid proof of payment, apply to a nonreceipted Schedule 1 received by a State with a Form 2290 as a substitute proof of payment under this paragraph (c)(2).

(d) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). A applies to register a 3-axle single unit truck in State R, a member of the International Registration Plan, on November 1, 1985. State R registers vehicles based on unladen weight. At the same time, A applies for a proportional registration under the IRP to use the truck in State S. State S does not register vehicles on the basis of unladen weight. For purposes of the

proportional registration in State S, A declares the gross weight of his truck at 50,000 pounds. A does not register the truck in any other states. A's truck has a taxable gross weight, as determined under §41.4482(b)–1(e), of less than 55,000 pounds and therefore is not subject to tax under section 4481(a). A submits a written statement along with his application for registration in State R. The written statement states that A's vehicle has a taxable gross weight of less than 55,000 pounds and is signed by A. State R may register A's truck and issue a proportional registration for A to use his truck in State S without receiving proof of payment.

Example (2). Assume the same facts as in example (1) except that A applies for proportional registration under the IRP in State S and declares the truck to have a gross weight of 60,000 pounds. The taxable gross weight of A's truck, as determined under §41.4482(b)–1(e) is 60,000 pounds. State R may not register A's truck unless it receives proof of payment within the meaning of paragraph (c) of this section.

Example (3). On October 10, 1985, C applies to register 9 vehicles in State U and declares the gross weight of each vehicle to be 70,000 pounds. C has not applied for registration in any other states. At the time of applying for registration, C presents a photocopy of a receipted Schedule 1 (Form 2290) that shows a total of 9 vehicles which are subject to tax under section 4481(a) and for which tax is not suspended under §41.4483–3(a). The vehicle identification numbers of the vehicles that C is seeking to register must be listed on the Schedule 1 in order for State U to register the vehicles.

Example (4). On November 10, 1985, B applies to register 10 vehicles in State T jointly in the names of B and F (a fleet operator) and declares each to have a gross weight of 70,000 pounds. B submits along with the registration application, a photocopy of a receipted Schedule 1 (Form 2290) that shows a total of 100 vehicles which are subject to tax under section 4481(a). F is the taxpayer named on the Schedule 1. No vehicle identification numbers are listed on the Schedule 1 and no list of such numbers is attached. State T may consider the Schedule 1 as proper proof of payment under paragraph (c)(1)(ii) of this section and may register B's vehicles.

[T.D. 8027, 50 FR 21251, May 23, 1985]

§41.6001–3 Proof of payment for entry into the United States.

(a) *In general.* (1) Except as otherwise provided in paragraph (a)(2) of this section, proof of payment of the tax imposed by section 4481(a) must be presented to United States Customs officials with respect to any highway motor vehicle subject to the tax imposed by section 4481(a) that has a base for registration purposes in a contiguous foreign country upon entry of such vehicle into the United States during any taxable period to which this section applies. Such proof of payment must relate to tax paid (or suspended under §41.4483–3) for the taxable period that includes the date of entry into the United States. See paragraph (c) of this section for the definition of the term ''proof of payment.''

(2) No proof of payment is required upon entry of a highway motor vehicle described in paragraph (a)(1) of this section into the United States if, as of the date of such entry, the period of time for filing a return of the tax imposed on such vehicle by section 4481(a) for the taxable period that includes the date of such entry has not expired and a written declaration is presented to United States Customs officials. Such declaration must state that, as of the date of such entry, the period of time for filing a return of the tax imposed on such vehicle by section 4481(a) for the taxable period that includes the date of such entry has not expired. The written declaration must include (i) the name, address, and taxpayer identification number of the person liable under §41.4481–2 for the tax imposed on such vehicle; (ii) the vehicle identification number of such vehicle; (iii) the date on which such vehicle was first used on the public highways in the United States during the taxable period (or a statement that the current entry is the first use on the public highways in the United States during the taxable period); (iv) an acknowledgment by the person liable for the tax imposed on such vehicle that the willful use of the declaration to evade or defeat the tax otherwise applicable under section 4481(a) will subject such person to a fine or imprisonment or both; and (v) the signature of the person liable for the tax imposed on such vehicle. A copy of the written declaration shall be retained in the records of the person liable for the tax imposed on such vehicle under the rules of §41.6001–1. See §41.6071(a)–1 for rules regarding the time for filing a return of the tax imposed by section 4481(a).

(b) *Failure to provide proof of payment.* If, upon attempting to enter the United States, the operator of a highway motor vehicle described in paragraph (a) of this section is unable to present proof of payment of the tax imposed by section 4481(a), or documentation described in paragraph (a)(2) of this section, with respect to such vehicle, then such vehicle may be denied entry into the United States.

(c) *Proof of payment*—(1) *In general.* For purposes of this section, the proof of payment required in paragraph (a) of this section shall consist of a receipted Schedule 1 (Form 2290) that is returned by the Internal Revenue Service to a taxpayer that files a return of tax under section 4481(a) and pays the amount of tax (or installment thereof) due with such return. A photocopy of such receipted Schedule 1 shall also serve as proof of payment. Such proof of payment shall also serve as proof or suspension of the tax under §41.4483–3 for the number of vehicles entered in that part of the Schedule 1 designated for vehicles for which tax has been suspended. The vehicle identification number of any vehicle for which a return is being filed, whether tax is being paid with respect to such vehicle or tax is suspended on such vehicle, must appear on the Schedule 1 (or an attached page) in order for the Schedule 1 to be a valid proof of payment for such vehicle.

(2) *Acceptable substitute for receipted Schedule 1.* For purposes of this section, a photocopy of the Form 2290 (with the Schedule 1 attached) that is filed with the Internal Revenue Service for a vehicle being entered into the United States with sufficient documentation of payment of tax due at the time the Form 2290 is filed (such as a photocopy of both sides of a cancelled check) shall be accepted as proof of payment. No documentation of payment of tax is required with the substitute proof of payment if at the time the Form 2290 is filed the tax imposed by section 4481(a) is suspended under §41.4483–3 with respect to the vehicle entering the United States. This substitute proof of payment may be used to enter a vehicle into the United States when, for example, the receipted Schedule 1 has been lost, or if the taxpayer that filed a Form 2290 with respect to such vehicle has not received a receipted Schedule 1 at the time such vehicle enters the United States.

(d) *Taxable periods to which this section applies.* This section shall apply to any taxable period beginning on or after July 1, 1987.

[T.D. 8159, 52 FR 33585, Sept. 4, 1987, as amended by T.D. 8177, 53 FR 6626, Mar. 2, 1988]

§41.6011(a)–1 Returns.

(a) Every person in whose name a highway motor vehicle is registered at the time of the first taxable use of such vehicle in any taxable period shall make a return of the tax on the use of such vehicle for such taxable period. Such return shall be made on Form 2290.

(b) Every person (other than a person required under paragraph (a) of this section to make a return) in whose name any highway motor vehicle is registered at a time during the taxable period when a taxable use of such vehicle occurs shall make a return of the tax on the use of such vehicle for such taxable period on Form 2290 if the district director notifies such person that such tax has not been paid in full. The amount to be reported as tax on such return with respect to the use of such vehicle shall be the unpaid portion of the tax on the use of such vehicle for such taxable period, measured from the first day of the month in which occurred the first taxable use of such vehicle in such taxable period. The district director shall advise such person of the amount of such unpaid tax. For provisions relating to the highway use tax liability for a taxable period of each person, where more than one person is liable for such tax, see §41.4481–2. For provisions relating to the payment of tax in installments, see §41.6156–1.

(c) Each return shall be made in accordance with the instructions and regulations applicable thereto.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7932, June 23, 1964]

§ 41.6071(a)–1 Time for filing returns.

(a) *Use after June 1956 and before July 1957.* Except as otherwise provided in paragraph (c) of this section:

(1) In the case of any highway motor vehicle the first taxable use of which occurs after June 1956 and before December 1956, the person in whose name the vehicle is registered at the time of such use shall, after November 1956 and on or before January 31, 1957, make a return of the tax on the use of such vehicle for the taxable year ending June 30, 1957; and

(2) In the case of any highway motor vehicle the first taxable use of which occurs in a month after November 1956 and before July 1957, the person in whose name the vehicle is registered at the time of such use shall, after such month and on or before the last day of the following month, make a return of the tax on the use of such vehicle for the taxable year ending June 30, 1957.

(b) *Use after June 1957.* Except as otherwise provided in paragraph (c) of this section:

(1) In the case of any highway motor vehicle the first taxable use of which in any taxable period beginning on or after July 1, 1957, occurs in July of such taxable period, the person in whose name such vehicle is registered at the time of such use shall, after July and on or before August 31 of such taxable period, make a return of the tax on the use of such vehicle for such taxable period.

(2) In the case of any highway motor vehicle the first taxable use of which in any taxable period beginning on or after July 1, 1957, occurs in a month of such taxable period after July, the person in whose name the vehicle is registered at the time of such use shall, after such month and on or before the last day of the following month, make a return of the tax on the use of such vehicle for such taxable period.

(c) *Certain transit-type buses.* In the case of any bus of the transit type, the first taxable use of which in any taxable period occurs prior to the close of the test period (see paragraph (c) of § 41.4483–2) with reference to which liability for the tax on the use of such transit-type bus for such taxable period is determined, the person in whose name the bus is registered at the time of such use shall, after such test period and on or before the last day of the following month (but in no event earlier than the time prescribed in paragraph (a)(1) of this section for filing a return) make a return of such tax for such taxable period on the use of such transit-type bus.

(d) *Prior taxable use.* Every person who, pursuant to paragraph (b) of § 41.6011(a)–1, is required to make a return of the tax on the use of any highway motor vehicle for any taxable period shall make such return on or before the last day of the month following the month in which such person is notified by the district director that such return is required.

(e) *Combined return.* In the case of any person who, pursuant to paragraph (a), (b), or (c) of this section, is required to report the tax on the use of two or more highway motor vehicles within a prescribed time after the close of a particular month, such person shall report the tax for the taxable period on the use of all such vehicles in a single return.

(f) *Delinquent returns.* For additions to the tax in case of failure to file return within the prescribed time, see section 6651 and the regulations thereunder.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7932, June 23, 1964]

§ 41.6081(a)–1 Extension of time for filing returns.

District directors may, upon application of the taxpayer, grant a reasonable extension of time (not to exceed 60 days) in which to file the return. Application for an extension of time for filing the return should be addressed to the district director for the district in which the taxpayer files his returns and must contain a full recital of the causes for the delay. For extensions of time for payment of the tax, see § 41.6161(a)(1)–1.

§ 41.6091–1 Place for filing returns.

(a) *Persons other than corporations.* Each return of a person other than a corporation shall be filed with the district director for the internal revenue district in which is located the principal place of business or legal residence of such person. If the person has

no principal place of business or legal residence in any internal revenue district, the return shall be filed with the Internal Revenue Service Center, Philadelphia, PA.

(b) *Corporations.* Each return of a corporation shall be filed with the district director for the district in which is located the principal place of business or principal office or agency of the corporation. If a corporation has no principal place of business or principal office or agency in any internal revenue district, the return shall be filed with the Internal Revenue Service Center, Philadelphia, PA.

[T.D. 6743, 29 FR 7932, June 23, 1964, as amended by T.D. 8159, 52 FR 33585, Sept. 4, 1987]

§ 41.6101–1 Period covered by returns.

Each return shall cover a taxable period as defined by paragraph (b) of § 41.4482(c)–1.

[T.D. 6743, 29 FR 7933, June 23, 1964]

§ 41.6109–1 Employer identification numbers.

(a) *Requirement of application*—(1) *In general.* An application on Form SS–4 for an employer identification number shall be made by every person in whose name a highway motor vehicle is registered at a time, after September 30, 1962, when a taxable use of such vehicle occurs, but who prior to such time neither has been assigned an employer identification number nor has applied therefor. The application, together with any supplementary statement, shall be prepared in accordance with the form, instructions, and regulations applicable thereto, and shall set forth fully and clearly the data therein called for Form SS–4 may be obtained from any district director or director of a service center. The application shall be filed with the internal revenue officer designated in the instructions applicable to Form SS–4. The application shall be signed by (i) the individual, if the person is an individual; (ii) the president, vice president, or other principal officer, if the person is a corporation; (iii) a responsible and duly authorized member or officer having knowledge of its affairs, if the person is a partnership or other unincorporated organization; or (iv) the fiduciary, if the person is a trust or estate. An employer identification number will be assigned to the person in due course upon the basis of information reported on the application required under this section.

(2) *Time for filing Form SS–4.* The application for an employer identification number shall be filed on or before the seventh day after the date of the first taxable use, after September 30, 1962, of a highway motor vehicle which is registered in the name of the person who is required to make the application.

(b) *Use of employer identification number.* The employer identification number assigned to a person liable for the tax imposed by section 4481 shall be shown in any return, statement, or other document made by such person for any period commencing after June 30, 1963.

(c) *Cross references.* For the definition of the term ''employer identification number'', see § 301.7701–12 of this chapter (Regulations on Procedure and Administration). For provisions relating to the penalty for failure to include the employer identification number in a return, statement, or other document, see § 301.6676–1 of this chapter (Regulations on Procedure and Administration).

[T.D. 6606, 27 FR 8518, Aug. 25, 1962, as amended by T.D. 7012, 34 FR 7695, May 15, 1969]

§ 41.6151(a)–1 Time and place for paying tax.

The tax imposed by § 41.4481–1 required to be reported on any return is due and payable to the district director with whom the return is required to be filed. Such tax shall be paid in full at the time prescribed in § 41.6071(a)–1 for filing the return, unless the person required to file the return elects to pay the tax shown on the return in installments. For provisions relating to payment of tax in installments, see § 41.6156–1. For provisions relating to interest on underpayments, see the regulations under section 6601 in Part 301 of this chapter (Regulations on Procedure and Administration). For provisions relating to credits and refunds, see §§ 301.6402–1, 301.6402–2, and 301.6402–

4 of this chapter (Regulations on Procedure and Administration). For provisions relating to abatements, see §301.6404–1 of this chapter (Regulations on Procedure and Administration). For provisions relating to limitations on credits or refunds, see §§301.6511(a)–1 and 301.6511(b)–1 of this chapter (Regulations on Procedure and Administration).

[T.D. 6743, 29 FR 7933, June 23, 1964]

§41.6156–1 Installment payments of tax on use of highway motor vehicle.

(a) *Privilege to pay tax in installments.* Except as provided in paragraph (f) of this section, the liability shown on each return on Form 2290 may be paid in equal installments, rather than by a single payment if the return is timely filed and the person filing the return elects in the return, in accordance with the instructions contained therein, to pay the tax in installments. For the tax liabilities of the parties to a transfer, where a vehicle has been transferred during the taxable period and there has been an election to pay tax in installments, see §41.4481–2.

(b) *Dates for paying installments.* In the case of any tax payable in installments by reason of the election described in paragraph (a) of this section, the installments must be paid in accordance with the following table:

If the liability was incurred in—	1st installment is due on or before the last day of—	2d installment is due on or before the last day of—	3d installment is due on or before the last day of—	4th installment is due on or before the last day of—
July	Aug	Dec	Mar	June
Aug	Sept	do	do	Do.
Sept	Oct	do	do	Do.
Oct	Nov	Mar	June.	
Nov	Dec	do	do.	
Dec	Jan	do	do.	
Jan	Feb	June.		
Feb	Mar	do.		
Mar	Apr	do.		

(c) *Proration of additional tax to installments.* If an election has been made under paragraph (a) of this section to pay the tax imposed by section 4481 in installments, and additional tax is assessed on a return for such tax before the date prescribed for payment of the last installment, the additional tax shall be prorated equally to all the installments, whether paid or unpaid. That part of the additional tax so prorated to any installment which is not yet due shall be collected at the same time and as part of such installment. The part of the additional tax so prorated to any installment, the date for payment of which has arrived, shall be paid upon notice and demand from the district director.

(d) *Acceleration of payment.* If any person elects under the provisions of this section to pay the tax in installments, any installment may be paid prior to the date prescribed for its payment. If an installment is not paid in full on or before the date fixed for its payment, the whole amount of the unpaid tax shall be paid upon notice and demand from the district director.

(e) *Interest in respect of installment payments.* Interest on an underpayment of an installment accrues from the due date for the installment. Where the installment privilege has been terminated and the time for payment of remaining installments has been accelerated by the issuance of a notice and demand, interest on these installments accrues from the date of such notice and demand. Interest on additional tax prorated as described in paragraph (c) of this section accrues from the date prescribed for the payment of the first installment. For provisions generally applicable to interest on delinquent taxes and installment payments, see section 6601 and §301.6601–1 of this chapter (Regulations on Procedure and Administration).

(f) *Liabilities to which election does not apply.* The privilege to pay tax in installments provided by section 6156, shall not apply to any liability for tax incurred in

(1) Any taxable period ending prior to July 1, 1961, and

(2) April, May, or June of any taxable period one year in length, or

(3) July, August, or September of a taxable period less than one year in length.

(g) *Cross references.* For provisions relating to overpayment of installments, see §301.6403–1 of this chapter (Regulations on Procedure and Administration).

[T.D. 7409, 41 FR 9877, Mar. 8, 1976, as amended by T.D. 7505, 42 FR 42856, Aug. 25, 1977]

§ 41.6161(a)(1)–1 Extension of time for paying tax.

If it is shown to the satisfaction of the district director that the payment of the tax upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer, the district director, at the request of the taxpayer, may grant an extension of time (not to exceed 60 days) for the payment of such tax.

§ 41.6302(b)–1 Method of collection.

For provisions relating to collection of the tax by means of returns, see § 41.6011(a)–1.

§ 41.7805–1 Promulgation of regulations.

In pursuance of section 7805 of the Internal Revenue Code of 1954, the foregoing regulations are hereby prescribed. (See § 41.0–3 relating to the scope of the regulations.)

PART 43—EXCISE TAX ON TRANSPORTATION BY WATER

Sec.

AUTHORITY: 26 U.S.C. 7805.

SOURCE: T.D. 8314, 55 FR 41520, Oct. 12, 1990, unless otherwise noted.

§ 43.0–1 Introduction.

The regulations in this part 43 are designated ''Excise Tax on Transportation by Water.'' The regulations relate to the taxes on transportation by water imposed by section 4471 of the Internal Revenue Code. See part 40 of this chapter for regulations relating to returns, payments, and deposits of taxes imposed by section 4471.

[T.D. 8442, 57 FR 48185, Oct. 22, 1992]

§43.4471–1 Imposition of tax.

(a) *In general.* Section 4471 imposes a tax of $3 per passenger on a covered voyage as is defined in section 4472.

(b) *By whom paid.* The tax is imposed on the person providing the covered voyage (the operator of the vessel).

[T.D. 8314, 55 FR 41520, Oct. 12, 1990. Redesignated by T.D. 8422, 57 FR 33636, July 30, 1992]

§ 43.4472–1 Definitions.

(a) *In general.* For definitions of the terms ''covered voyage'' and ''passenger vessel,'' see sections 4472 (1) and (2).

(b) *Voyage.* For purposes of this section, ''voyage'' means a journey of a vessel that includes the outward and homeward trips or passages. The voyage commences when the vessel begins to load passengers and continues during the entire ensuing period until the vessel has made one outward and one homeward passage (including intermediate passages, if made). A voyage may be a covered voyage with respect to a passenger even if the passenger does not make both an outward and homeward passage or if the point of first embarkation or disembarkation by the passenger in the United States is an intermediate stop of the vessel.

(c) *Over 1 or more nights.* A voyage is considered to extend over 1 or more nights if it extends for more than 24 hours.

(d) *Engaged in gambling.* A passenger is engaged in gambling aboard a vessel if that person is participating as a player in any policy game or other lottery, or any other game of chance, for money or other thing of value, provided that the policy game, other lottery, or game of chance is conducted, sponsored, or operated by the owner or operator of the vessel, as either principal or agent, or by an employee, agent, or franchisee of the owner or operator of the vessel. A passenger is not engaged in gambling aboard a vessel if the passenger participates with other passengers in a casual, ''friendly'' game of chance that is not conducted, sponsored, or operated by the owner or operator of the vessel or by an employee, agent, or franchisee of the owner or operator.

(e) *Territorial waters.* For purposes of sections 4471 and 4472, the territorial waters of the United States are those waters within the international boundary line between the United States and any contiguous foreign country or within 3 nautical miles (3.45 statute miles) from low tide on the coastline. No inference is intended as to the extent of the territorial limits for other tax purposes.